

House Bill 892

By: Representatives Oliver of the 83<sup>rd</sup>, Porter of the 143<sup>rd</sup>, Smyre of the 132<sup>nd</sup>, Ashe of the 56<sup>th</sup>, Hugley of the 133<sup>rd</sup>, and others

A BILL TO BE ENTITLED

AN ACT

1 To amend Title 21 of the Official Code of Georgia Annotated, relating to elections, so as to  
2 create a voluntary taxpayer fund to financially assist certain judicial campaigns and  
3 candidates who demonstrate qualifying public support and who accept fund-raising and  
4 spending limitations concomitant with the acceptance of such funds; to change certain  
5 provisions relating to the duty of the State Election Board; to change certain provisions  
6 relating to the enforcement of Chapter 2 of said title, relating to elections and primaries  
7 generally; to provide that the State Election Board enforce provisions relating to the "Georgia  
8 Fund for Judicial Campaigns Act"; to provide for a short title; to make legislative findings;  
9 to provide for definitions; to provide for a fund and fund sources to finance the election  
10 campaigns of certain judicial candidates; to provide for the mechanics of making  
11 distributions from the fund, including qualification of candidates, timing of fund distribution,  
12 amount of fund distribution, method of fund distribution, and restrictions on campaign  
13 contributions and expenditures necessary in order to obtain and continue to receive  
14 distributions from the fund; to provide for an advisory council for the fund; to provide for  
15 appointments and terms of office for members of the advisory council; to provide for  
16 appeals; to provide for rule making; to provide for public reporting of information; to provide  
17 for voluntary contributions to the fund through the state income tax return; to provide for the  
18 Department of Revenue's assistance in collecting contributions and transmitting them to the  
19 fund; to change provisions relating to maximum allowable contributions; to provide for  
20 related matters; to provide for an effective date; to repeal conflicting laws; and for other  
21 purposes.

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

23 **SECTION 1.**

24 Title 21 of the Official Code of Georgia Annotated, relating to elections, is amended by  
25 revising Code Section 21-2-31, relating to duties of the State Election Board, as follows:

"21-2-31.

It shall be the duty of the State Election Board:

(1) To promulgate rules and regulations so as to obtain uniformity in the practices and proceedings of superintendents, registrars, deputy registrars, poll officers, and other officials, as well as the legality and purity in all primaries and elections;

(2) To formulate, adopt, and promulgate such rules and regulations, consistent with law, as will be conducive to the fair, legal, and orderly conduct of primaries and elections; and, upon the adoption of each rule and regulation, the board shall promptly file certified copies thereof with the Secretary of State and each superintendent;

(3) To publish and furnish to primary and election officials, from time to time, a sufficient number of indexed copies of all primary and election laws and pertinent rules and regulations then in force;

(4) To publish and distribute such explanatory pamphlets regarding the interpretation and application of primary and election laws as in the opinion of the board should be distributed to the electorate;

(5) To investigate, or authorize the Secretary of State to investigate, when necessary or advisable the administration of primary and election laws and frauds and irregularities in primaries and elections and to report violations of the primary and election laws either to the Attorney General or the appropriate district attorney who shall be responsible for further investigation and prosecution; and to investigate when necessary or advisable the administration of and compliance with Chapter 3 of this title and to report violations of Chapter 3 of this title either to the Attorney General or the appropriate district attorney who shall be responsible for further investigation and prosecution. Nothing in this paragraph shall be so construed as to require any complaining party to request an investigation by the board before such party might proceed to seek any other remedy available to that party under this chapter, Chapter 3 of this title, or any other provision of law;

(6) To make such recommendations to the General Assembly as it may deem advisable relative to the conduct and administration of primaries and elections;

(7) To promulgate rules and regulations to define uniform and nondiscriminatory standards concerning what constitutes a vote and what will be counted as a vote for each category of voting system used in this state;

(8) To employ such assistants as may be necessary;

(9) Subject to funds being specifically appropriated by the General Assembly, to formulate and conduct a voter education program concerning voting procedures for voting by absentee ballot and at the polls with particular emphasis on the proper types of identification required for voting; ~~and~~

(10) To formulate, adopt, and promulgate such rules and regulations, consistent with law, as necessary for the administration of Chapter 3 of this title and to file certified copies thereof with the Secretary of State;

(11) To publish and furnish forms for use in the administration of Chapter 3 of this title; and

~~(10)~~(12) To take such other action, consistent with law, as the board may determine to be conducive to the fair, legal, and orderly conduct of primaries and elections and to the administration of Chapter 3 of this title."

## SECTION 2.

Said title is further amended by revising Code Section 21-2-33.1, relating to the enforcement of Chapter 2 of Title 21, as follows:

"21-2-33.1.

(a) The State Election Board is vested with the power to issue orders, after the completion of appropriate proceedings, directing compliance with this chapter or Chapter 3 of this title or prohibiting the actual or threatened commission of any conduct constituting a violation of either chapter, which order may include a provision requiring the violator:

(1) To cease and desist from committing further violations;

(2) To pay a civil penalty not to exceed \$5,000.00 for each violation of this chapter or Chapter 3 of this title or for each failure to comply with any provision of this chapter or Chapter 3 of this title or of any rule or regulation promulgated under this chapter or Chapter 3 of this title. Such penalty may be assessed against any violator as the State Election Board deems appropriate;

(3) To publicly reprimand any violator found to have committed a violation;

(4) To require that restitution be paid by any violator to a state, county, or city governing authority when it has suffered a monetary loss or damage as the result of a violation;

(5) To require violators to attend training as specified by the board; and

(6) To assess investigative costs incurred by the board against any violator found to have committed a violation.

(b) A civil penalty shall not be assessed against any violator except after notice and hearing as provided by Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' In addition to the State Election Board, any contested case may be held before any representative of such board who has been selected and appointed by such board for such purpose. The amount of any civil penalty finally assessed shall be recoverable by a civil action brought in the name of the State Election Board. All moneys recovered pursuant to this Code section shall be deposited in the state treasury, except for any moneys recovered

98 pursuant to the enforcement of Chapter 3 of this title, which shall be deposited in the  
99 Georgia Fund for Judicial Campaigns.

100 (c) The Attorney General of this state shall, upon complaint by the State Election Board,  
101 bring an action in the superior court in the name of the State Election Board for a  
102 temporary restraining order or other injunctive relief or for civil penalties assessed against  
103 any violator of any provision of this chapter or Chapter 3 of this title or any rule or  
104 regulation duly issued by the State Election Board.

105 (d) Any action brought by the Attorney General to enforce civil penalties assessed against  
106 any violator of this chapter or Chapter 3 of this title or any rule or regulation duly issued  
107 by the State Election Board or any order issued by the State Election Board ordering  
108 compliance or to cease and desist from further violations shall be brought in the superior  
109 court of the county of the residence of the party against whom relief is sought. Service of  
110 process shall lie in any jurisdiction within ~~the~~ this state. In such actions, the superior court  
111 inquiry ~~will~~ shall be limited to whether notice was given by the State Election Board to the  
112 violator in compliance with the Constitution and the rules of procedure of Chapter 13 of  
113 Title 50, the 'Georgia Administrative Procedure Act.' Upon satisfaction that notice was  
114 given and a hearing was held pursuant to Chapter 13 of Title 50, the 'Georgia  
115 Administrative Procedure Act,' the superior court shall enforce the orders of the State  
116 Election Board and the civil penalties assessed under this chapter or Chapter 3 of this title,  
117 and the superior court shall not make independent inquiry as to whether the violations have  
118 occurred.

119 (e) In any action brought by the Attorney General to enforce any of the provisions of this  
120 chapter or Chapter 3 of this title or of any rule or regulation issued by the State Election  
121 Board, the judgment, if in favor of the State Election Board, shall provide that the  
122 defendant pay to the State Election Board the costs, including reasonable attorneys' fees,  
123 incurred by the State Election Board in the prosecution of such action."

### 124 **SECTION 3.**

125 Said title is further amended by replacing Chapter 3, which is reserved, with a new Chapter 3  
126 to read as follows:

### 127 "CHAPTER 3

### 128 ARTICLE 1

#### 129 21-3-1.

130 This chapter shall be known and may be cited as the 'Georgia Fund for Judicial Campaigns  
131 Act.'

21-3-2.

The purpose of this chapter is to enlarge public discussion and participation in the election process, to ensure the fairness of democratic elections in Georgia, to protect the constitutional rights of voters and candidates from any detrimental effects or improper influence stemming from large private campaign contributions or independent expenditures, and, with special regard to the necessity of upholding public confidence in the integrity of the judiciary, to eliminate the appearance of improper influence stemming from large private campaign contributions or independent expenditures. Accordingly, this chapter establishes the Georgia Fund for Judicial Campaigns as an alternative source of campaign financing for candidates who demonstrate qualifying broad public support and voluntarily accept fund-raising expenditure limitations in conjunction with acceptance of fund moneys. This chapter shall be applicable to candidates for Justice of the Supreme Court and Judge of the Georgia Court of Appeals in elections to be held in 2012 and thereafter.

21-3-3.

As used in this chapter, the term:

(1) 'Advisory council ' means the Advisory Council for the Georgia Fund for Judicial Campaigns Act established in Code Section 21-3-7.

(2) 'Board' means the State Election Board.

(3) 'Campaign committee' has the same meaning as the term is defined in paragraph (2) of Code Section 21-5-3.

(4) 'Candidate' has the same meaning as the term is defined in paragraph (4) of Code Section 21-5-3 when the individual is seeking an office. The term includes a campaign committee authorized by the candidate for that candidate's election.

(5) 'Certified candidate' means a candidate running for office who chooses to receive campaign funds from the fund and who is certified pursuant to Code Section 21-3-5.

(6) 'Contested election' means a general nonpartisan election or run-off election of a general nonpartisan election for an office in which there are more candidates than the number to be elected, other than write-in candidates.

(7) 'Contribution' has the same meaning as the term is defined in paragraph (7) of Code Section 21-5-3. Notwithstanding any other provision of law to the contrary, a distribution from the fund pursuant to this chapter shall not be considered to be a contribution for purposes of this chapter or Chapter 5 of this title and shall not be subject to the limitations of Code Section 21-5-41.

(8) 'Expenditure' has the same meaning as the term is defined in paragraph (11) of Code Section 21-5-3.

(9) 'Fund' means the Georgia Fund for Judicial Campaigns established in Code Section 21-3-4.

(10) 'Office' means a judgeship on the Supreme Court of Georgia or Georgia Court of Appeals.

(11) 'Participating candidate' means a candidate for office who has filed a declaration of intent to participate pursuant to Code Section 21-3-5.

(12) 'Qualifying contribution' means a contribution in an amount of no more than \$500.00 and not less than \$5.00 and in the form of a check or money order payable to the candidate that is:

(A) Made by any registered voter in this state;

(B) Made before filing the declaration of intent to participate in the fund; and

(C) Is not a contribution made by the candidate from his or her own money.

(13) 'Qualifying period' means the period referenced in subsection (c) or (i) of Code Section 21-2-132, as applicable to the particular year in which the election occurs.

(14) 'Supplemental qualifying contribution' means a contribution in an amount no more than \$500.00 and in the form of a check or money order payable to the candidate that is:

(A) Made by any registered voter in this state;

(B) Made by an individual who has not made a qualifying contribution pursuant to paragraph (12) of this Code section; and

(C) Made after the initial grant distribution pursuant to paragraph (1) of subsection (a) of Code subsection 21-3-6 and not later than 20 days before the date of the election or run-off election.

21-3-4.

(a) *Establishment of the fund.* The Georgia Fund for Judicial Campaigns is established to finance the election campaigns of certified candidates for office and to pay administrative and enforcement costs of the board related to this chapter. The fund is a special, dedicated, nonlapsing, nonreverting fund. All expenses of administering this chapter, and personnel and other costs incurred by the board, shall be paid from the fund and not from the general fund of the state treasury. Any interest generated by the fund shall be credited to the fund. The board shall administer the fund.

(b) *Sources of funding.* Money received from all the following sources shall be deposited in the fund:

(1) Designations made to the fund by individual taxpayers pursuant to Code Section 21-3-20;

(2) Fund revenues distributed for a contested election that remain unspent or uncommitted at the time the recipient is no longer a certified candidate in the election;

(3) Fund revenues distributed for a contested election that remain unspent or uncommitted at the time the recipient is elected, pursuant to paragraph (5) of subsection (d) of Code Section 21-3-5;

(4) Money ordered returned to the fund by the board or State Ethics Commission;

(5) Any contribution made by attorneys in accordance with the rules of the Supreme Court of Georgia; and

(6) Voluntary donations made directly to the fund.

21-3-5.

(a) Declaration of intent to participate. Any candidate choosing to receive campaign funds from the fund shall first file with the board a declaration of intent to participate in the fund as a candidate for a stated office. The declaration of intent shall be filed within 90 days of the last date of the qualifying period and after collecting any qualifying contributions. In the declaration, the candidate shall swear or affirm that only one campaign committee, identified with its treasurer, shall handle all contributions, expenditures, and obligations for the participating candidate and that the candidate will comply with the contribution and expenditure limitations set forth in subsection (d) of this Code section and all other requirements set forth in this chapter and Chapter 5 of this title. Failure to comply with this Code section shall be a violation of this chapter punishable as determined by the board.

(b) Demonstration of support of candidacy. Participating candidates who seek certification to receive campaign funds from the fund shall first, before filing a declaration of intent to participate in the fund, raise qualifying contributions from at least 250 registered voters in this state. No payment, gift, or anything of value shall be given in exchange for a qualifying contribution.

(c)(1) Certification of candidates and reports. Upon receipt of the declaration of intent to participate by a participating candidate, the board shall determine whether the candidate:

(A) Has properly signed and filed the declaration of intent to participate in the fund pursuant to this chapter;

(B) Has submitted a report itemizing the appropriate number of qualifying contributions received from registered voters, which the board shall verify through a random sample or other means it adopts. The report shall include:

(i) The name of each contributor;

(ii) Each contributor's address, including the county of residence; and

(iii) Each contributor's employer and profession;

(C) Is qualified to receive votes on the ballot as a candidate for the office; and

(D) Otherwise meets the requirements for participation in the fund pursuant to this chapter.

(2) The board shall certify candidates within ten days of the qualifying period who have also satisfied subparagraphs (c)(1)(A) through (c)(1)(D) of this Code section. The board shall notify candidates not complying with the requirements of this subsection as soon as possible and no later than five business days after receipt of unsatisfactory compliance with this subsection.

*(d) Restrictions on contributions and expenditures for participating and certified candidates.* The following restrictions shall apply to contributions and expenditures with respect to participating and certified candidates:

(1) Beginning when a candidate who is not holding office declares his or her intent to accept campaign contributions for office pursuant to subsection (g) of Code Section 21-5-30 or at the start of each election cycle as defined in paragraph (10) of Code Section 21-5-3 for candidates holding office and continuing through the date of the election or run-off election, the candidate may accept contributions in amounts up to \$500.00; provided, however, that no contributor shall contribute more than \$500.00 in the aggregate. Prior to a candidate's certification pursuant to subsection (c) of this Code section, the candidate may expend up to \$25,000.00 of the qualifying contributions raised for any campaign purpose for an election or run-off election. Following a candidate's certification pursuant to subsection (c) of this Code section, the candidate may expend the remaining qualifying contribution funds raised, the funds the candidate receives from the fund pursuant to Code Section 21-3-6, and any other funds raised for any campaign purpose for an election or run-off election. Any candidate who seeks office who accepts any amount in excess of the limits on qualifying contributions, or the \$25,000.00 expenditure limit of this paragraph, shall be ineligible to file a declaration of intent or receive funds from the fund;

(2) Notwithstanding the contribution limits set forth in paragraph (1) of this subsection, the candidate may contribute up to \$10,000.00 of that candidate's own money to his or her campaign;

(3) A candidate shall limit the use of all revenues permitted by this subsection to expenditures for campaign related purposes only. The guidelines outlining permissible campaign related expenditures shall be the same as provided in Chapter 5 of this title;

(4) Any contribution received by a participating candidate or a certified candidate that falls outside that which is permitted by this subsection shall be returned to the donor as soon as practicable. Contributions intentionally made, solicited, or accepted in violation of this chapter shall be subject to penalties as determined by the board; and

(5) A candidate shall return to the fund any amount distributed for an election that is unspent and uncommitted at the date of the election or run-off election, if applicable, or at the time the candidate ceases to be a certified candidate, whichever occurs first. For accounting purposes, all qualifying contributions and supplemental qualifying contributions shall be considered spent before revenue from the fund is spent or committed.

(e) Revocation. A candidate may revoke, in writing to the board, a decision to participate in the fund at any time before the deadline set by the board. After a timely revocation, that candidate may accept and expend contributions outside the limits of this chapter without violating this chapter. Within ten days after revocation, a candidate shall return to the board all money received from the fund.

21-3-6.

(a) Timing of fund distribution.

(1) Initial grant. Following the initial certification of a candidate who will be in a contested election, revenue from the fund in an amount determined under paragraph (2) of subsection (b) of this Code section shall be distributed within 15 days after the candidate is certified, but no later than ten days before the contested election.

(2) Subsequent grants. Beginning no less than 30 days after the date of certification of a candidate pursuant to subsection (c) of Code Section 21-3-5, and in intervals of not less than 20 days, and in no case less than 20 days before the date of an election or run-off election, a certified candidate may apply for additional moneys from the fund pursuant to paragraph (2) of subsection (b) of this Code Section. Applications for such additional funds shall contain a report which contains the same information required under subparagraph (c)(1)(B) of Code Section 21-3-5, and the board shall be required to verify the report in the same manner as set forth in such subparagraph.

(b) Amount of fund distribution.

(1) Initial grant. By the tenth day after the qualifying period, prior to each general nonpartisan election, the board shall determine the amount of funds, rounded to the nearest \$100.00, to be distributed to certified candidates running in a contested election in an amount equal to:

(A) For candidates for Justice of the Supreme Court of Georgia, an amount equal to 40 times the candidate's filing fee as set forth in Code Section 21-2-131; and

(B) For candidates for Judge of the Court of Appeals of Georgia, an amount equal to 20 times the candidate's filing fee as set forth in Code Section 21-2-131.

(2) Subsequent grants. Upon application and certification made pursuant to paragraph (2) of subsection (a) of this Code Section, certified candidates may receive distributions in the amount of five times the amount of supplemental qualifying contributions raised.

(3) The total amount of the fund distributed to any one candidate for any election cycle, including any run-off election, shall not exceed:

(A) For candidates for Justice of the Supreme Court of Georgia, an amount equal to four times the amount of the initial grant distribution made pursuant to paragraph (1) of this subsection; and

(B) For candidates for Judge of the Court of Appeals of Georgia, an amount equal to three times the amount of the initial grant distribution made pursuant to paragraph (1) of this subsection.

(c) Method of fund distribution. The board, in consultation with the director of the Office of Treasury and Fiscal Services, shall develop a rapid, reliable method of conveying funds to certified candidates. In all cases, the board shall distribute funds to certified candidates in a manner that is expeditious, ensures accountability, and safeguards the integrity of the fund. If the money in the fund is insufficient to fully fund all certified candidates, then the available money shall be distributed proportionally, according to each candidate's eligible funding.

21-3-7.

(a) Enforcement by the board. The board, with the advice of the advisory council, shall administer the provisions of this chapter.

(b) Advisory Council for the Georgia Fund for Judicial Campaigns Act.

(1) There is established under the board the Advisory Council for the Georgia Fund for Judicial Campaigns Act to advise the board on the rules, procedures, and opinions the board adopts for the enforcement and administration of this chapter and on the funding needs and operation of the fund. The advisory council shall have full access to all records pertaining to the fund in order to enforce the provisions of this chapter. The advisory council shall consist of five members to be appointed as follows:

(A) The Governor shall name two members from a list of individuals nominated by the state executive committee of the political party which received the greatest number of votes in Georgia in the last presidential election. The state chairperson of that party shall submit to the Governor the names of five nominees;

(B) The Governor shall name two members from a list of individuals nominated by the state executive committee of the political party which received the second greatest number of votes in Georgia in the last presidential election. The state chairperson of that party shall submit to the Governor the names of five nominees; and

(C) The board shall name one member by unanimous vote of all members of the board. If the board cannot reach unanimity on the appointment of that member, the advisory council shall consist of the remaining members named by the Governor.

(3) The initial members shall be appointed by August 1, 2010. Of the initial appointees, two shall serve for one-year terms, two shall serve for two-year terms, and one shall serve for a three-year term according to random lot. Thereafter, appointees shall be appointed to serve four-year terms. An individual shall not serve more than two full terms, exclusive of the initial term of appointment. The appointed members shall not be compensated for their services but shall be reimbursed in the same manner as provided for in Code Section 45-7-21. One member of the advisory council shall be elected by the members as chairperson. A vacancy during an unexpired term shall be filled in the same manner as the regular appointment for that term, but a vacancy appointment shall only be for the unexpired portion of the term.

(c) Appeals. The initial decision on an issue concerning qualification, certification, or distribution of funds under this chapter shall be made by the chairperson of the board. The procedure for challenging such decision shall be as follows:

(1) An individual or entity aggrieved by a decision of the chairperson of the board may appeal to the full board within three business days of such decision. The appeal shall be in writing and shall set forth the reasons for the appeal; and

(2) Within five business days after an appeal is properly made, and after due notice is given to the parties, the board shall hold a hearing. The appellant shall have the burden of providing evidence to demonstrate that the decision of the chairperson of the board was improper. The board shall rule on the appeal within three business days after the completion of the hearing.

(d) Board to adopt rules and issue opinions. The board shall adopt rules and issue opinions to ensure effective administration of this chapter. Such rules and opinions shall include, but not be limited to, procedures for obtaining qualifying contributions, certification of candidates, addressing circumstances involving special elections, vacancies, recounts, withdrawals, or replacements, collection of revenues for the fund, distribution of fund revenue to certified candidates, return of unspent fund disbursements, and compliance with this chapter. For races involving special elections, recounts, vacancies, withdrawals, or replacement candidates, the board shall establish procedures for qualification, certification, disbursement of fund revenues, and return of unspent fund revenues. The board shall fulfill each of these duties in consultation with the advisory council.

(e) Report to the public. The advisory council shall issue a report by December 15, 2010, and every two years thereafter that evaluates and makes recommendations about the implementation, administration, and enforcement of this chapter and the feasibility of

expanding its provisions to include other candidates for state office based on the experience of the fund and the experience of similar programs in other states. The advisory council shall also evaluate and make recommendations regarding how to address activities that could undermine the purpose of this chapter, including spending that appears to target candidates receiving money from the fund. The report shall be made available to the Governor, the Lieutenant Governor, the Speaker of the House of Representatives, and to members of the public via the advisory council's website.

## ARTICLE 2

21-3-20.

(a) To support public financing for appellate judicial campaigns, the board may, without limitation, promote and solicit voluntary contributions through the income tax return contribution mechanism established in subsection (e) of this Code section and through any fund-raising or other promotional techniques deemed appropriate by the board.

(b) The Georgia Fund for Judicial Campaigns shall exclusively consist of all moneys provided for under Code Section 21-3-4. All balances in the fund shall be deposited in an interest-bearing account identifying the fund and shall be carried forward each year so that no part thereof may be deposited in the general fund of the state treasury. The fund shall be administered and the moneys held in the fund shall be expended by the board in furtherance of providing public financing for appellate judicial campaigns.

(c) Following the transmittal of contributions to the board for deposit in the fund pursuant to subsection (e) of this Code section, the expenditure of moneys in the fund shall be allocated as determined by the board to certified candidates and to pay for administrative and personnel costs associated with implementation of this chapter.

(d) The board shall prepare, by February 1 of each year, an accounting of the funds received and expended from the fund and a review and evaluation of all expended moneys and expected future financial needs of the fund. The report shall be made available to the Governor, the Lieutenant Governor, the Speaker of the House of Representatives, and to members of the public via the board's website.

(e)(1) Unless an earlier date is deemed feasible and established by the Governor, each Georgia income tax return form for taxable years beginning on or after January 1, 2011, shall contain appropriate language, to be determined by the state revenue commissioner, which shall include an opportunity for the taxpayer to contribute up to \$10.00 to the fund established in subsection (b) of this Code section by either donating all or any part of any tax refund due by authorizing a reduction in the refund check otherwise payable or by contributing \$10.00 over and above any amount of tax owed by adding that amount to the

taxpayer's payment. In the case of a married couple filing a joint return, each taxpayer shall have the option of agreeing to the contribution. The tax return form shall include a \$10.00 voluntary contribution unless the taxpayer chooses not to contribute such amount. The instructions accompanying the income tax return form shall contain a description of the purposes for which this fund was established and the intended use of moneys received from the contributions. The instructions shall make it clear to the taxpayer that taxpayer contributions will support a nonpartisan court system. The instructions shall also state the manner in which the taxpayer can choose not to make the \$10.00 contribution and the option of contributing a different amount. The Department of Revenue shall consult with the board to ensure that the information given to taxpayers complies with the intent of this chapter. Each taxpayer required to file a state income tax return who desires to contribute to such fund may designate such contribution as provided in this Code section on the appropriate income tax return form.

(2) The Department of Revenue shall determine annually the total amount contributed, shall withhold therefrom a reasonable amount for administering the provisions of paragraph (1) of this subsection, and shall transmit the balance to the board for deposit in the fund established in subsection (b) of this Code section; provided, however, that the amount retained for administrative costs, including implementation costs, shall not exceed \$50,000.00 per year. If, in any tax year, the administrative costs of the Department of Revenue for collecting contributions pursuant to this Code section exceed the sum of such contributions, the administrative costs which the Department of Revenue is authorized to withhold from such contributions shall not exceed the sum of such contributions.

(3) The amounts allocated to the board for the fund pursuant to this subsection shall be credited to the board on a quarterly basis."

#### SECTION 4.

Said title is further amended by adding a new subsection to Code Section 21-5-41, relating to maximum allowable contributions, to read as follows:

"(a.1) Notwithstanding subsection (a) of this Code section, and in order to make meaningful the provisions of Chapter 3 of this title, a certified candidate as defined in paragraph (5) of Code Section 21-3-3 shall only accept contributions as provided in Code Section 21-3-5. The recipient of such contribution that violates this subsection shall have three days in which to return such contribution to the contributor or file a detailed statement with the State Election Board explaining why such contribution does not violate this subsection."

453 **SECTION 5.**

454 This Act shall become effective on July 1, 2010.

455 **SECTION 6.**

456 All laws and parts of laws in conflict with this Act are repealed.